PART IV

SECTION 1-B

CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

NOTIFICATION

No. LAW 106 LCA 1972, Bangalore, dated 18th October, 1972.

The Governor of Mysore is pleased to order that the Taxation Laws (Amendment) Act, 1972 (45 of 1972) which has been published in the *Gazette of India*, Extraordinary, Part II, Section 1, dated 1st September, 1972 be republished in the *Mysore Gazette*, for general information.

H. SUBBA RAO,

Under Secretary to Government,
Department of Law and Parliamentary Affairs

Assented to on 31st August 1972 Act No. 45 of 1972

THE TAXATION LAWS (AMENDMENT) ACT, 1972

ARRANGEMENT OF SECTIONS

CHAPTER I

PRILIMINARY

Sections

1. Short title and commencement.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

2. Insertion of new section 55A.
3. Amendment of section 254.
4. Insertion of new Chapter XXA.
5. Insertion of new section 281A.
6. Insertion of new section 287A.

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

7. Amendment of section 2.
8. Amendment of section 7.
9. Insertion of new section 12A.
10. Insertion of new section 16A.
11. Amendment of section 23.
12. Amendment of section 24.
13. Amendment of section 26.
14. Insertion of new Chapter VIIB.
15. Amendment of section 35.
16. Amendment of section 36.
17. Amendment of section 37.
18. Insertion of new section 38A.
19. Amendment of section 46.

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

20. Amendment of section 2.
21. Amendment of section 15.
22. Amendment of section 23.
23. Amendment of section 25.
24. Insertion of new section 43A.

CHAPTER V

MISCELLANEOUS

25. Saving and special provision.

THE TAXATION LAWS (AMENDMENT) ACT, 1972

AN

ACT

further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Gift-tax Act, 1958.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Taxation Laws (Amendment) Act, 1972.

(2) It shall comt into force on such date as the Central Government may, by notification in the Official Gazette, appo'nt, and differe:t dates may be appointed for different provisions of this Act.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

2. *Insertion of new section 55A.*—In the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) (43 of 1961), after section 55, the following section shall be inserted, namely :—

Reference to Valuation Officer.—'55A. With a view to ascertaining the fair market value of a capital asset for

the purposes of this Chapter, the Income-tax officer may refer the valuation of the capital asset to a Valuation Officer—

(*a*) in a case where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer, if the Income-tax Officer is of opinion that the value so claimed is less than its fair market value;

(*b*) in any other case, if the Income-tax Officer is of opinion—

(*i*) that the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than such percentage of the value of the asset as so claimed or by more than such amount as may be prescribed in this behalf; or

(*ii*) that having regard to the nature of the asset and other relevant circumstances, it is necessary so to do,

and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clauses (*ha*) and (*i*) of sub-section (1) and sub-sections (3A) and (4) of section 23, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957) shall, with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Wealth-tax Officer under sub-section (1) of section 16A of that Act.

Explanation.—In this section, "Valuation Officer" has the same meaning as in clause (*r*) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

3. *Amendment of section 254.*—In section 254 of the Income-tax Act, sub-section (1A) shall be omitted.

4. *Insertion of new Chapter XXA.*—In the Income-tax Act, after Chapter XX, the following Chapter shall be inserted, namely:—

CHAPTER XXA

ACQUISITION OF IMMOVABLE PROPERTIES IN CERTAIN CASES OF TRANSFER TO COUNTERACT EVASION OF TAX

269. *Definitions.*—In this Chapter, unless the context otherwise requires,—

(*a*) "apparent consideration", in relation to any immovable property transferred, means,—

(*i*) if the transfer is by way of sale, the consideration for such transfer as specified in the instrument of transfer,

(*ii*) if the transfer is by way of exchange,—

(*A*) in a case where the consideration for the transfer consists of a thing or things only, the price that such thing or things would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer;

(*B*) in a case where the consideration for the transfer consists of a thing or things and a sum of money, the aggregate of the price that such thing or things would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer and such sum;

(*b*) "competent authority" means an Assistant Commissioner of Income-tax authorised by the Central Government under section 269B to perform the functions of competent authority under this Chapter;

(*c*) *"court" means a principal civil court of original jurisdiction unless the Central Government has appointed (as it is hereby authorised to do) any special judicial officer within any specified local limits to perform the functions of the court under this Chapter;*

(*d*) "fair market value", in relation to any immovable property transferred, means the price that the immovable property would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer of such property;

(*e*) "immovable property" means any land or any building or part of a building, and includes, where any land or any building, or part of a building is transferred together with any machinery, plant, furniture, fittings or other things, such machinery, plant, furniture, fittings or other things also.

Explanation.—For the purposes of this clause, land, building, part of a building, machinery, plant, furniture, fittings and other things include any rights therein;

(*f*) "instrument of transfer" means the instrument of transfer registered under the Registration Act, 1908 (16 of 1908);

(*g*) "person interested", in relation to any immovable property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the acquisition of that property under this Chapter;

(*h*) "transfer", in relation to any immovable property, means transfer of such property by way of sale or exchange.

269B. *Competent authority*.—(1) The Central Government may, by general or special order published in the Official Gazette,—

(*a*) authorise as many Assistant Commissioners of Income-tax, as it thinks fit, to perform the functions of a competent authority under this Chapter; and

(*b*) define the local limits within which the competent authorities shall perform their functions under this Chapter.

(2) In respect of any function to be performed by a competent authority under any provision of this Chapter in relation to any immovable property referred to in section 269C, the competent authority referred to therein shall,—

(*a*) in a case where such property is situate within the local limits of the jurisdiction of only one competent authority, be such competent authority ;

(*b*) in a case where such property is situate within the local limits of the jurisdiction of two or more competent authorities, be the competent authority empowered to perform such functions in relation to such property in accordance with rules made in this behalf by the Board under section 295.

(3) No person shall be entitled to call in question the jurisdiction of a competent authority in respect of any immovable property after the expiry of thirty days from the date on which such competent authority initiates proceedings under section 269D for the acquisition of such property.

(4) Subject to the provisions of sub-section (3), where the jurisdiction of a competent authority is questioned, the competent authority shall, if satisfied with the correctness of the claim, by order in writing, determine the question accordingly and if he is not satisfied, he shall refer the question to the Board and the Board shall, by order in writing, determine the question.

269C. *Immovable property in respect of which proceedings for acquisition may be taken*—(1) Where the competent authority has reason to believe that any immovable property of a fair market value exceeding twenty-five thousand rupees has been transferred by a person (hereafter in this Chapter referred to as the transferor) to another person (hereafter in this Chapter referred to as the transferee) for an apparent consideration which is less than the

fair market value of the property and that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with the object of—

(*a*) facilitating the reduction or evasion of the liability of the transferor to pay tax under this Act in respect of any income arising from the transfer ; or

(*b*) Facilitating the concealment of any income or any moneys or other assets which have not been or which ought to be disclosed by the transferee for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act or the Wealth-tax Act, 1957 (27 of 1957)

the competent authority may, subject to the provisions of this Chapter, initiate proceedings for the acquisition of such property under this Chapter :

Provided that before initiating such proceedings, the competent authority shall record his reasons for doing so :

Provided further that no such proceedings shall be initiated unless the competent authority has reason to believe that the fair market value of the property exceeds the apparent consideration therefor by more than fifteen per cent of such apparent consideration.

(2) In any proceedings under this Chapter in respect of any immovable property,—

(*a*) where the fair market value of such property exceeds the apparent consideration therefor by more than twenty-five per cent of such apparent consideration, it shall be conclusive proof that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer ;

(*b*) where the property has been transferred for an apparent consideration which is less than its fair market

value, it shall be presumed, unless the contrary is proved that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with such object as is referred to in clause (*a*) or clause (*b*) of sub-section (1).

269D *Preliminary notice.*—(1) The competent authority shall initiate proceedings for the acquisition, under this Chapter, of any immovable property referred to in section 269C by notice to that effect published in the Official Gazette :

Provided that no such proceedings shall be initiated in respect of any immovable property after the expiration of a period of six months from the end of the month in which the instrument of transfer in respect of such property is registered under the Registration Act, 1908 (16 of 1908):

Provided further that—

(*a*) in a case where it is determined under sub-section (4) of section 269B by the competent authority who has initiated proceedings for the acquisition of any immovable property under this Chapter or by the Board that such competent authority has no jurisdiction to initiate such proceedings, the competent authority having jurisdiction may initiate such proceedings within—

(*i*) the period of six months specified in the foregoing proviso ; or

(*ii*) a period of thirty days from the date of such determination,

whichever period expires later ;

(*b*) in a case where proceedings for the acquisition of any immovable property under this Chapter could not be initiated during any period of time by reason of any injunction or order of any court prohibiting the initiation of such

proceedings or preventing the examination of documents or other materials required to be examined for the purpose of determining whether such proceedings should be initiated, the time of the continuance of the injunction or order, the day on which it was issued or made and the day on which it was withdrawn shall be excluded in computing the period during which such proceedings may be in tiafed under this sub-section.

(2) The competent authority shall—

(*a*) cause a notice under sub-section (1) in respect of any immovable property to be served on the transferor, the transferee, the person in occupation of the property, if the transferee is not in occupation thereof, and on every person whom the competent authority knows to be interested in the property ;

(b) cause such notice to be published—

(*i*) in his office by affixing a copy thereof to a conspicuous place ;

(*ii*) in the locality in which the immovable property to which it relates is situate, by affixing a copy thereof to a conspicuous part of the property and also by making known in such manner as may be prescribed the substance of such notice at convenient places in the said locality.

269E. *Objections.*—(1) Objections against the acquisition of the immovable property in respect of which a notice has been published in the Official Gazette under sub-section (1) of section 269D may be made—

(*a*) by the transferor or the transferee or any other person referred to in clause (*a*) of sub-section (2) of that section, within a period of forty-five days from the date of such publication or a period of thirty days from the date of service of notice on such person under the said clause, whichever period expires later ;

(*b*) by any other person interested in such immovable property, within forty-five days from the date of such publication.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing.

(3) For the removal of doubts, it is hereby declared that object on may be made under sub-section (1) that the provisions of clause (*a*) of sub-section (2) of section 269C do not apply in relation to any immovable property on the ground that the fair market value of such property does not exceed the apparent consideration therefor by more than twenty-five per cent of such apparent consideration.

269F. *Hearing of objections.*—(1) The competent authority shall fix a day and place for the hearing of the objections made under section 269E against the acquisition under this Chapter of any immovable property, and shall give notice of the same to every person who has made such objection :

Provided that such notice shall also be given to the transferee of such property even if he has not made any such objection.

(2) every person to whom a notice is given under sub-section (1) shall have the right to be heard at the hearing of the objections.

(3) The competent authority shall have the power to adjourn the hearing of the objections from time to time.

(4) The competent authority may, before disposing of the objections, make such further inquiry as he thinks fit.

(5) The decision of the competent authority in respect of the objections heard shall be in writing and shall

state the reasons for the decision with respect to each objection.

(6) If after hearing the objections, if any, and after taking into account all the relevant material on record the competent authority is satisfied that,—

(*a*) the immovable property to which the proceeding relate is of a fair market value exceeding twenty-five thousand rupees;

(*b*) the fair market value of such property exceeds the apparent consideration therefor by more than fifteen per cent of such apparent consideration; and

(c) the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with such object as is referred to in clause (*a*) or clause (*b*) of sub-section (1) of section 269C,

he may, after obtaining the approval of the Commissioner, make an order for the acquisition of the property under this Chapter.

Explanation.—In this sub-section, "Commissioner", in relation to a competent authority, means such commissioner as the Board may, general or special order in writing, specify in this behalf.

(7) If the competent authority is not satisfied as provided in sub-section (6), he shall, by order in writing, declare that the property will not be acquired under this Chapter.

(8) The competent authority shall serve a copy of his order under sub-section (6) or sub-section (7), as the case may be, on the transferor, the transferee and on every person who has made objections against such acquisition under section 269E.

(9) In any proceedings under this Chapter in respect of any immovable property, no objection shall be entertained on the ground that although the apparent consideration for the property is less than the fair market value of the property on the date of the execution of the instrument of transfer, the consideration as agreed to between the parties has been truly stated in the instrument of transfer because such consideration was agreed to having regard to the price that such property would have ordinarily fetched on sale in the open market on the date of the conclusion of the agreement to sell the property, except where such agreement has been registered under the Registration Act, 1908 (16 of 1908).

Appeal against order for acquisition 269G.—(1) An appeal may be preferred to the Appellate Tribunal against the order for the acquisition of any immovable property made by the competent authority under section 269F,—

(*a*) by the transferor or the transferee or any other person referred to in sub-section (8) of that section, within a period of forty-five days from the date of such order or a period of thirty days from the date of service of a copy of the order on such person under the said sub-section, whichever period expires later,

(*b*) by any other person interested in such immovable property, within forty-five days from the date of such order.

Provided that the Appellate tribunal may, on an application made in this behalf before the expiry of the said period of forty-five days or, as the case may be, thirty days, permit, by order, the appeal to be presented within such further period as may be specified therein if the applicant satisfies the Appellate Tribunal that he has sufficient cause for not being able to present the appeal within the said period of forty-five days or, as the case may be, thirty days.

(2) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of one hundred and twenty-five rupees.

(3) The Appellate Tribunal shall fix a day and place for the hearing of the appeal and shall give notice of the same to the appellant and to the competent authority.

(4) The Appellate Tribunal may, after giving the appellant and the competent authority an opportunity of being heard, pass such orders thereon as it thinks fit.

(5) The Appellate Tribunal may, at any time within thirty days from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4) and shall make such amendment if the mistake is brought to its notice by the appellant or the competent authority :

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity of being heard.

(6) The Appellate tribunal shall send a copy of any orders passed under this section to the appellant and to the Commissioner.

(7) Save as provided in section 269H, orders passed by the Appellate Tribunal on appeal shall be final.

(8) Every appeal under this section shall be disposed of as expeditiously as possible and endeavour shall be made to dispose of every such appeal within ninety days from the date on which it is presented.

(9) The provisions of section 255 [except sub- section (3) thereof] shall, so far as may be, apply in relation to the powers, functions and proceedings of the Appellate

Tribunal under this section as they apply in relation to the powers, functions and proceedings of the Appellate Tribunal under Chapter XX.

269H. *Appeal to High Court.*—The Commissioner or any person aggrieved by any order of the Appellate Tribunal under section 269G may, within sixty days of the date on which he is served with notice of such order under that section, prefer an appeal against such order to the High Court on any question of law :

Provided that the High Court may, on an application made in this behalf before the expiry of the said period of sixty days, permit, by order, the appeal to be presented within such further period as may be specified therein, if the applicant satisfies the High Court that he has sufficient cause for not being able to present the appeal within the said period of sixty days.

(2) An appeal under sub-section (1) shall be heard by a Bench of not less than two Judges of the High Court and the provisions of section 259 shall apply in relation to any such appeal as they apply in relation to a case referred to the High Court under section 256.

(3) The costs of the appeal shall be in the discretion of the High Court.

269I. *Vesting of property in Central Government.*—(1) As soon as may be after the order for acquisition of any immovable property made under sub-section (6) of section 269F becomes final, the competent authority may, by notice in writing, order any person who may be in possession of the immovable property to surrender or deliver possession thereof to the competent authority or any other person duly authorised in writing by the competent authority in this behalf, within thirty days of the date of the service of the notice.

Explanation.—For the purposes of this sub-section, an order for the acquisition of any immovable property (hereafter in this *Explanation* referred to as the order for acquisition) made under sub-section (6) of section 269F becomes final;—

(*a*) in a case where the order for acquisition is not made the subject of an appeal to the Appellate Tribunal under section 269G, upon the expiry of the period during which such appeal may be presented under that section;

(*b*) in a case where the order for acquisition is made the subject of an appeal to the Appellate Tribunal under section 269G.—

(*i*) if the order for acquisition is confirmed by the Appellate Tribunal and the order of the Appellate Tribunal is not made the subject of an appeal to the High Court under section 269H, upon the expiry of the period during which such appeal may be presented under that section to the High Court;

(*ii*) if the order of the Appellate Tribunal is made the subject of an appeal to the High Court under section 269H, upon the confirmation of the order for acquisition by the High Court.

(2) If any person refuses or fails to comply with the notice under sub-section (1), the competent authority or other person duly authorised by the competent authority under that sub-section may take possession of the immovable property and may, for that purpose, use such force as may be necessary.

(3) Notwithstanding anything contained in sub-section (2), the competent authority may, for the purpose of taking possession of any property referred to in sub-section (1), requisition the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

(4) When the possession of the immovable property is surrendered or delivered under sub-section (1) to the competent authority or a person duly authorised by him in that behalf or, as the case may be, when the possession thereof is taken under sub-section (2) or sub-section (3) by such authority or person, the property shall vest absolutely in the Central Government free from all encumbrances :

Provided that nothing in this sub-section shall operate to discharge the transferee or any other person (not being the Central Government) from liability in respect of such encumbrances and, notwithstanding anything contained any other law, such liability may be enforced against the transferee or such other person by a suit for damages.

269J. *Compensation.*—(1) Where any immovable property is acquired under this Chapter, the Central Government shall pay for such acquisition compensation which shall be a sum equal to the aggregate of the amount of the apparent consideration for its transfer and fifteen per cent of the said amount.

(2) Notwithstanding anything contained in sub-section (1),—

(*a*) where, after the transfer to the transferee of the property referred to in that sub-section but before the vesting of the property in the Central Government, the property has been damaged (otherwise than as a result of normal wear and tear), the compensation payable under that sub-section shall be reduced by such amount as the competent authority and the persons entitled to the compensation may agree within fifteen days of the vesting of the property in the Central Government or in default of such agreement as the court may, on a reference made to it in this behalf by the competent authority or by any person duly authorised for the purpose by the competent authority, determine to be the amount that may have to be expended for restoring the property to the condition in which it was at the time of such transfer ;

(*b*) where, after the transfer of such property to the transferee but before the date of publication in the Official Gazette of the notice in respect of such property under sub-section (1) of section 269D, any improvements have made to the property, whether by way of addition or alteration or in any other manner, the compensation payable in respect of such property under sub-section (1) shall be increased by such amount as the competent authority and the persons entitled to the compensation may agree within fifteen days of the vesting of the property in the Central Government or in default of such agreement as the court may, on a reference made to it in this behalf by the competent authority or by any person duly authorised for the purpose by the competent authority, determine to be the amount spent for making such improvements.

(3) Every reference under clause (*a*) or clause (*b*) of sub-section (2) shall be made within thirty days of the date on which the immovable property to which it relates becomes vested in the Central Government or within such further period as the court may, on an application made in this behalf before the expiry of the said period and on being satisfied that there is sufficient cause for doing so, allow and such reference shall state clearly the compensation payable under sub-section (1) in respect of the immovable property and the amount by which, according to the estimate of the competent authority, such compensation shall be reduced under clause (*a*) or, as the case may be, increased under clause (*b*), of sub-section (2)

(4) The amount by which the compensation payable under sub-section (1) in respect of any immovable property acquired under this Chapter falls short of the amount which would have been payable as compensation, if that property had been acquired under the Land Acquisition Act, 1894 (1 of 1894), after the issue of a preliminary notice under section 4 of that Act on the date of publication in the Official Gazette of the notice in respect of the property under sub-section (1) of section 269D shall be deemed to have been realised by the Central Government as a penalty from the

transferee for being a party to a transfer with such object as is referred to in clause (*a*) or clause (*b*) of sub-section (1) of section 269C, and no penalty shall be levied for any assessment year on the transferee—

(*a*) under clause (*iii*) of sub-section (1) of section 271, for concealing the particulars or furnishing inaccurate particulars of so much of his income as is utilised by him for paying to the transferor, by way of consideration for the property, any amount in excess of the apparent consideration for the property, notwithstanding that such amount is included in the income of the transfree ;

(*b*) under clause (*iii*) of sub-section (1) of section 18 of the Wealth-tax Act, 1957 (27 of 1957), for concealing the particulars or furnishing inaccurate particulars of so much of his assets as are utilised by him for paying to the transferor, by way of consideration for the property, any amount in excess of the apparent consideration for the property, notwithstanding that such assets are included in the net wealth of the transferee.

269K. *Payment or deposit of compensation.*—(1) The amount of compensation payable in accordance with the provisions of section 269J for the acquisition of any immovable property shall be tendered to the person or persons entitled thereto, as soon as may be, after the property becomes vested in the Central Government under sub-section (4) of section 269I :

Provided that in any case where a reference is or has to be made under sub-section (2) of section 269J to the court for the determination of the amount by which the compensation payable under sub-section (1) of that section shall be reduced or increased, the amount of such compensation as reduced or increased by the amount estimated in that behalf by the competent authority for the purposes of such reference shall be tendered as aforesaid.

(2) Notwithstanding anything contained in sub-section (1), if any dispute arises as to the apportionment of the compensation amongst persons claiming to be entitled thereto, the Central Government shall deposit in the court the compensation required to be tendered under sub-section (1) and refer such dispute for the decision of the court and the decision of the court thereon shall be final.

(3) Notwithstanding anything contained in sub-section (1), if the persons entitled to compensation do not consent to receive it, or if there is no person competent to alienate the immovable property, or if there is any dispute as to the title to receive the compensation, the Central Government shall deposit in the court the compensation required to be tendered under sub section (1) and refer the matter for the decision of the court:

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of the compensation for any immovable property acquired under this Chapter to pay the same to the person lawfully entitled thereto.

(4) If the Central Government fails to tender under sub-section (1) or deposit under sub-section (2) or sub-section (v) the whole or any part of the compensation required to be tendered or deposited thereunder within thirty days of the date on which the immovable property to which the compensation relates becomes vested in the Central Government under sub-section (4) of section 269I, the Central Government shall be liable to pay simple interest at the rate of twelve per cent per annum reckoned from the day immediately following th date of expiry of the said period up to the date on which it so tenders or deposits such compensation or, as the case may be, such part of the compensation.

(5) Where any amount of compensation (including interest, if any, thereon) has been deposited in the court

under this section, the court may, either of its own motion or on an application made by or on behalf of any party interested or claiming to be interested in such amount, order the same to be invested in such Government or other securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefit therefrom as they might have had from the immovable property in respect whereof such amount has been deposited or as near thereto as may be.

269L. *Assistance by Valuation Officers.*—(1) The competent authority may,—

(*a*) for the purpose of initiating proceedings for the acquisition of any immovable property under section 269C or for the purpose of making an order under section 269F in respect of any immovable property, require a Valuation Officer to determine the fair market value of such property and report the same to him ;

(*b*) for the purpose of estimating the amount by which the compensation payable under sub-section (1) of section 269J in respect of any immovable property may be reduced or, as the case may be, increased under clause (*a*) or clause (*b*) of sub-section (2) of that section, require the Valuation Officer to make such estimate and report the same to him.

(2) The Valuation Officer to whom a reference is made under clause (*a*) or clause (*b*) of sub-section (1) shall, for the purpose of dealing with such reference, have all the powers that he has under section 38A of the Wealth-tax Act, 1957 (27 of 1957).

(3) If in an appeal under section 269G against the order for acquisition of any immovable property, the fair market value of such property is in dispute, the Appellate

Tribunal shall, on a request being made in this behalf by the competent authority, give an opportunity of being heard to any Valuation Officer nominated for the purpose by the competent authority.

Explanation.—In this section, "Valuation Officer" has the same meaning as in clause (*r*) of section 2 of the Wealth-tax Act, 1957 (27 of 1957)

269M. *Powers of competent authority.*—The competent authority shall have, for the purposes of this Chapter, all the powers that a Commissioner has, for the purposes of this Act, under section 131.

269N. *Rectification of mistakes.*—With a view to rectifying any mistake apparent from the record, the competent authority may amend any order made by him under this Chapter at any time before the time for presenting an appeal against such order has expired, either on his own motion or on the mistake being brought to his notice by any person affected by the order :

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity of being heard.

269O. *Appearance by authorised representative or registered valuer.*—Any person who is entitled or required to attend before a competent authority or the Appellate Tribunal in any proceeding under this Chapter, otherwise than when required to attend personally for examination on oath or affirmation, may attend—

(*a*) by an authorised representative in connection with any matter ;

(*b*) by a registered valuer in connection with any matter relating to the valuation of any immovable property for the purposes of this Chapter or the estimation of the

amount by which the compensation payable under sub-section (1) of section 269J for the acquisition of any immovable property may be reduced or, as the case may be, increased in accordance with the provisions of clause (*a*) or clause (*b*) of sub-section (2) of that section.

Explanation.—In this section,—

(*i*) "authorised representative" has the same meaning as in section 288;

(*ii*) "registered valuer" has the same meaning as in clause (*oaa*) of section 2 of the Wealth-tax Act, 1957 (27 of 1957)

269P. *Statement to be furnished in respect of transfers of immovable property.*—(1) Notwithstanding anything contained in any other law for the time being in force, no registering officer appointed under the Registration Act, 1908, (16 of 1908) shall register any document which purports to transfer any immovable property belonging to any person unless a statement in duplicate in respect of such transfer, in the prescribed form and verified in the prescribed manner and setting forth such particulars as may be prescribed, is furnished to him along with the instrument of transfer.

(2) The registering officer shall, at the end of every fortnight, forward to the competent authority,—

(*a*) one set of the statements received by him under sub-section (1) during the fortnight; and

(*b*) a return in the prescribed form and verified in the prescribed manner and setting forth such particulars as may be prescribed in respect of documents of the nature referred to in sub-section (1) which have been registered by him during the fortnight.

269Q. *Chapter not to apply to transfers to relatives.*—The provisions of this Chapter shall not apply to or in relation to any transfer of immovable property made by a person to his relative on account of natural love and affection for a consideration which is less than its fair market value if a recital to that effect is made in the instrument of transfer.

269R. *Properties liable for acquisition under this Chapter not to be acquired under other laws.*—Notwithstanding anything contained in the Land Acquisition Act, 1894, (1 of 1894) or any corresponding law for the time being in force, no immovable property referred to in section 269C shall be acquired for any purpose of the Union under that Act or such law unless the time for initiation of proceedings for the acquisition of such property under this Chapter has expired without such proceedings having been initiated or unless the competent authority has declared that such property will not be acquired under this Chapter.'

269S. *Chapter not to extend to State of Jammu and Kashmir.*—The provisions of this Chapter shall not extend to the State of Jammu and Kashmir.'

5. *Insertion of new section* 281A.—In the Income-tax Act, after section 281, the following section shall be inserted, namely :—

"281A. *Effect of failure to furnish information in respect of properties held* benami.—(1) No suit to enforce any right in respect of any property held *benami*, whether against the person in whose name the property is held or against any other person, shall be instituted in any court by or on behalf of a person (hereafter in this section referred to as the claimant) claiming to be the real owner of such property unless,—

(*a*) the income, if any, from such property has been disclosed in any return of income furnished by the claimant under this Act; or

(*b*) such property has been disclosed in any return of net wealth furnished by the claimant under the Wealth-tax Act, 1957 ; (27 of 1957) or

(*c*) notice in the prescribed form and containing the prescribed particulars in respect of the property has been given by the claimant to the Income-tax Officer.

(2) The Income-tax Officer shall, on an application made by any person in the prescribed manner and on payment of the prescribed fees, issue for the purposes of a suit referred to in sub-section (1), relevant extracts from the return furnished by such person under this Act or the Wealth-tax Act, 1957, (27 of 1957) or a certified copy of any notice given by such person under clause (*c*) of sub-section (1) within fourteen days from the date of receipt of the application therefor.

(3) This section shall not apply to any suit of a value not exceeding two thousand rupees which is tried by,—

(*a*) a Court of Small Causes constituted under the Presidency Small Cause Courts Act, 1882 (15 of 1882); or the Provincial Small Cause Courts Act, 1887 (9 of 1887); or

(*b*) a court invested with the jurisdiction of a Court of Small Causes, by or under any enactment for the time being in force, in the exercise of such jurisdiction.".

6. *Insertion of new section* 287A.—In the Income-tax Act, after section 287, the following section shall be inserted namely :—

'287A. *Appearance by registered valuer in certain matters.*—Any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal in connection with any matter relating to the valuation of

any asset, otherwise than when required under section 131 to attend personally for examination on oath or affirmation, may attend by a registered valuer.

Explanation.—In this section, "registered valuer" has the same meaning as in clause (*oaa*) of section 2 of the Wealth-tax Act, 1957 (27 of 1957) ;

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

7. *Amendment of section 2.*—In section 2 of the Wealth-tax Act, 1957 (27 of 1957) (hereinafter referred to as the Wealth-tax Act),—

(*a*) after clause (*oa*), the following clause shall be inserted, namely :—

'(*oaa*) "registered valuer" means a person registered as a valuer under section 34AB ;';

(*b*) for clause (*r*), the following clause shall be substituted, namely :—

(*r*) "Valuation Officer" means a person appointed as a Valuation Officer under section 12A, and includes a Regional Valuation Officer, a District Valuation Officer and an Assistant Valuation Officer ;'

8. *Amendment of section 7.*—In section 7 of the Wealth-tax Act, after sub-section (2), the following sub-section shall be inserted, namely :—
namely :—

"(3) Notwithstanding anything contained in sub-section (1), where the valuation of any asset is referred by the Wealth-tax Officer to the Valuation Officer under section

16A, the value of such asset shall be estimated to be the price which, in the opinion of the Valuation Officer, it would fetch if sold in the open market on the valuation date."

9. *Insertion of new section* 12A.—After section 12 of the Wealth-tax Act, the following section shall be inserted namely :—

"12A. *Appointment of Valuation Officers.*—(1) The Central Government may appoint as many Valuation Officers as it thinks fit.

(2) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, a wealth-tax authority may appoint as many overseers, surveyors and assessors as may be necessary to assist the Valuation Officers in the performance of their functions.".

10. *Insertion of new section* 16A.—After section 16 of the Wealth-tax Act, the following section shall be inserted, namely :—

"16A. *Reference to Valuation Officer.*—(1) For the purpose of making an assessment (including an assessment in respect of any assessment year commencing before the date of coming into force of this section) under this Act, the Wealth-tax Officer may refer the valuation of any asset to a Valuation Officer—

(*a*) in a case where the value of the asset as returned is in accordance with the estimate made by a registered valuer, if the Wealth-tax Officer is of opinion that the value so returned is less than its fair market value ;

(*b*) in any other case, if the Wealth tax Officer is of opinion—

(i) that the fair market value of the asset exceeds the value of the asset as returned by more than such percentage of the value of the

asset as returned or by more than such amount as may be prescribed in this behalf; or

(ii) that having regard to the nature of the asset and other relevant circumstances, it is necessary so to do.

(2) For the purpose of estimating the value of any asset in pursuance of a reference under sub-section (1), the Valuation Officer may serve on the assessee a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the Valuation Officer may require.

(3) Where the Valuation Officer is of opinion that the value of the asset has been correctly declared in the return made by the assessee under section 14 or section 15, he shall pass an order in writing to that effect and send a copy of his order to the Wealth-tax Officer and to the assessee.

(4) Where the Valuation Officer is of opinion that the value of the asset is higher than the value declared in the return made by the assessee under section 14 or section 15, or where the asset is not disclosed or the value of the asset is not declared in such return or where no such return has been made, the Valuation Officer shall serve a notice on the assessee intimating the value which he proposes to estimate and giving the assessee an opportunity to state on a date to be specified in the notice, his objections either in person or in writing before the Valuation Officer and to produce or cause to be produced on that date such evidence as the assessee may rely in support of his objections.

(5) On the date specified in the notice under sub-section (4), or as soon thereafter as may be, after hearing such evidence as the assessee may produce and after considering such evidence as the Valuation Officer may require on any specified points and after taking into account all

relevant material which he has gathered, the Valuation Officer shall, by order in writing, estimate the value of the asset and send a copy of his order to the Wealth-tax Officer and to the assessee.

(6) On receipt of the order under sub-section (3) or sub-section (5) from the Valuation Officer, the Wealth-tax Officer shall, so far as the valuation of the asset in question is concerned, proceed to complete the assessment in conformity with the estimate of the Valuation Officer."

11. *Amendment of section* 23.—In section 23 of the Wealth-tax Act,—

(*a*) in sub-section (1),—

(*i*) after clause (*h*), the following clause shall be inserted, namely :—

"(*ha*) objecting to any order of the Valuation Officer under section 35 having the effect of enhancing the valuation of any asset or refusing to allow the claim made by the assessee under the said section ; or" ;

(*ii*) in clause (*i*) for the words "Wealth-tax Officer", the words "Wealth-tax Officer or valuation officer shall be substituted ;

(*b*) after sub-section (3), the following sub-section shall be inserted, namely :—

"(3A) If the valuation of any asset is objected to in an appeal under clause (*a*) of sub-section (1), the Appellate Assistant Commissioner shall,—

(*a*) in a case where such valuation has been made by a Valuation Officer under section 16A, give such Valuation Officer an opportunity of being heard ;

(*b*) in any other case, on a request being made in this behalf by the Wealth-tax Officer, give an opportunity of being heard to any Valuation Officer nominated for the purpose by the Wealth-tax Officer." ;

(*c*) in sub-section (4), in clause (*b*), for the words " Wealth-tax Officer ", the words " Wealth-tax Officer or, as the case may be, the Valuation Officer " shall be substituted.

12. *Amendment of section* 24.—In section 24 of the Wealth-tax Act,—

(*a*) in sub-section (5), for the words "Provided that", the following shall be substituted, namely :—

"Provided that if the valuation of any asset is objected to, the Appellate Tribunal shall,—

(*a*) in a case where such valuation has been made by a Valuation Officer under section 16A, also give such Valuation Officer an opportunity of being heard;

(*b*) in any other case, on a request being made in this behalf by the Wealth-tax Officer, give an opportunity of being heard also to any Valuation Officer nominated for the purpose by the Wealth-tax Officer :

Provided further that ";

(*b*) sub-sections (6), (7), (8), (8A) and (8B) shall be omitted.

13. *Amendment of section* 26.—In section 26 of the Wealth-tax Act, in sub-section (3), for the words, brackets and figures "sub-sections (3) and (5) to (10) inclusive", the words, brackets and figures "sub-sections (3), (5), (9) and (10)" shall be substituted.

14. *Insertion of new Chapter VII B.*—In the Wealth-tax Act, after Chapter VII-A ; the following Chapter shall be inserted, namely :—

(*iv*) not undertake valuation of any asset in which he has a direct or indirect interest.

(4) The report of valuation of any asset by a registered valuer shall be in the prescribed form and be verified in the prescribed manner.

34AC. *Restrictions on practice as registered valuer.*— (1) No person, either alone or in partnership with any other person, shall practise, describe himself or hold himself out as a registered valuer for the purposes of this Act or permit himself to be so described or held out, unless he is registered as a valuer or, as the case may be, unless he and all his partners are so registered under this Chapter.

(2) No company or other body corporate shall practise, describe itself or hold itself out as registered valuers for the purposes of this Act or permit itself to be so described or held out.

34AD. *Removal from register of names of valuers and restoration.*—(1) The Board may remove the name of any person from the register of valuers where it is satisfied, after giving that person a reasonable opportunity of being heard and after such further inquiry, if any, as it thinks fit to make,—

(*i*) that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact ;

(*ii*) that he has been convicted of any offence and sentenced to a term of imprisonment or has been guilty of misconduct in his professional capacity which, in the opinion of the Board, renders him unfit to be kept in the register.

(2) The Board may, on application and on sufficient cause being shown, restore to the register the name of any person removed therefrom.".

15. *Amendment of section* 35.—In section 35 of the Wealth-tax Act,—

(*a*) in sub-section (1), after clause (*a*), the following clause shall be inserted, namely :—

"(*aa*) the Valuation Officer may amend any order passed by him under section 16A ;";

(*b*) in sub-section (3), in clause (*b*), for the words "Appellate Assistant Commissioner", the words "Valuation Officer or the Appellate Assistant Commissioner" shall be substituted ;

(*c*) after sub-section (6), the following sub-section shall be inserted, namely :—

"(6A) Where any amendment made by the Valuation Officer under clause (*aa*) of sub-section (1) has the effect of enhancing the valuation of any asset, he shall send a copy of his order to the Wealth-tax Officer who shall thereafter proceed to amend the order of assessment in conformity with the order of the Valuation Officer and the provisions of sub-section (6) shall apply accordingly." ;

(*d*) after sub-section (7), the following sub-section shall be inserted, namely :—

"(7A) Notwithstanding anything contained in sub-section (7), where the valuation of any asset has been enhanced by the Valuation Officer under this section, the consequential amendment to the order of assessment may be made by the Wealth-tax Officer at any time before the expiry of one year from the date of the order of the Valuation Officer under this section."

16. *Amendment of Section* 36.—In Section 36 of the Wealth-tax Act, after sub-section (2A), the following sub-section shall be inserted, namely :—

"(2B) If a person makes a statement in a verification mentioned in Section 34AB which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment which may extend to six months or with fine or with both.".

17. *Amendment of Section* 37.—In Section 37 of the Wealth-tax Act,—

(*a*) in sub-section (1), for the words "The Wealth-tax Officer,", the words "The Wealth-tax Officer, Valuation Officer," shall be substituted ;

(*b*) in sub-section (3), in the proviso, for the words "a Wealth-tax Officer", the words "a Wealth-tax Officer or a Valuation Officer" shall be substituted.

18. *Insertion of new Section* 38A.—After Section 38 of the Wealth-tax Act, the following secion shall be inserted, namely :—

"38A. *Powers of Valuation Officer, etc.*—(1) For the purposes of this Act, a Valuation Officer or any overseer, surveyor or assessor authorised by him in this behalf may, subject to any rules made in this behalf and at such reasonable times as may be prescribed.—

(*a*) enter any land within the limits of the area assigned to the Valuation Officer, or

(*b*) enter any land, building or other place belonging to or occupied by any person in connection with whose assessment a reference has been made under Section 16A to the Valuation Officer, or

(*c*) inspect any asset in respect of which a reference under Section 16A has been made to the Valuation Officer,

and require any person in charge of, or in occupation or possession of, such land, building or other place or asset to afford him the necessary facility to survey or inspect such land, building or other place or asset or estimate its value or inspect any books of account, document or record which may be relevant for the valuation of such land, building or other place or asset and gather other particulars relating to such land, building or other place or asset :

Provided that no Valuation Officer, overseer, surveyor or assessor shall enter any building or place referred to in clause (*b*) or inspect any asset referred to in clause (*c*) (unless with the consent of the person in charge of, or in occupation or possession of, such building, place or asset) without previously giving to such person at least two days' notice in writing of his intention to do so.

(2) If a person who, under sub-section (1), is required to afford any facility to the Valuation Officer or the overseer, surveyor or assessor, either refuses or evades to afford such facility, the Valuation Officer shall have all the powers under sub-section (1) and (2) of Section 37 for enforcing compliance of the requirements made."

19. *Amendment of Section* 46.—In Section 46 of the Wealth-tax Act, in sub-section (2), for clause (*e*), the following clauses shall be substituted, namely :—

"(*e*) the areas within which Valuation Officers may exercise jurisdiction ;

(*ee*) the manner in which and the conditions subject to which Valuation Officers, overseers, surveyors and assessors may exercise their powers under sub-section (1) of Section 68B ;".

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

20. *Amendment of Section 2.*—In Section 2 of the Gift-tax Act, 1958 (18 of 1958) (hereinafter referred to as the Gift-tax Act), clause (*xxv*) shall be omitted.

21. *Amendment of Section 15.*—In Section 15 of the Gift-tax Act, after sub-section (5), the following sub-section shall be inserted, namely :—

'(6) Notwithstanding anything contained in Section 6, for the purpose of making an assessment under this Act, the Gift-tax Officer may refer to a Valuation Officer, the valuation of any property transferred by way of gift—

(*a*) in a case where the value of the property as returned is in accordance with the estimate made by a registered valuer, if the Gift-tax Officer is of opinion that the value so returned is less than its fair market value ;

(*b*) in any other case, if the Gift-tax Officer is of opinion—

(*i*) that the fair market value of the property exceeds the value of the property as returned by more than such percentage of the value of the property as returned or by more than such amount as may be prescribed in this behalf ; or

(*ii*) that having regard to the nature of the property and other relevant circumstances, it is necessary so to do ;

and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5), and (6) of section 16A,

clauses (*ha*) and (*i*) of sub-section (1) and sub-sections (3A) and (4) of section 23, sub section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957, (27 of 1957), shall, with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Wealth-tax Officer under sub-section (1) of section 16A of that Act.

Explanation.—In this sub-section, "Valuation Officer" has the same meaning as in clause (*r*) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).'.

22. *Amendment of section* 23.—In section 23 of the Gift-tax Act, sub-sections (6), (7) and (8) shall be omitted.

23. *Amendment of section* 25.—In section 25 of the Gift-tax Act, in sub-section (3), for the words, brackets and figures "sub-sections (3) and (5) to (10) inclusive", the words, brackets and figures "sub-sections (3), (5), (9) and (10)" shall be substituted.

24. *Insertion of new section* 43A.—In the Gift-tax Act, after section 43, the following section shall be inserted, namely :—

43A. *Appearance by registered valuer in certain matters.*—Any assessee who is entitled or required to attend before any Gift-tax Authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, except where he is required under this Act to attend in person, may attend by a registered valuer.

Explanation.—In this section, "registered valuer" has the same meaning as in clause (*oaa*) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).'.

CHAPTER V

MISCELLANEOUS

25. *Saving and special provision.*—(1) Notwithstanding the omission of sb-section (1A) of section 254 of the Income-tax Act, 1961 (43 of 1961), by section 3 of this Act, every requisition by an appellant for the making of a reference under that sub-section and every reference made under that sub-section before such omission shall be dealt with as if the said sub-section had not been omitted, and, save as aforesaid, no such reference shall be made after such omission.

(2) Notwithstanding the omission of sub-sections (6), (7), (8), (8A) and (8B) of section 24 of the Wealth-tax Act, 1957 (27 of 1957), by clause (*b*) of section 12 of this Act, every requisition by an appellant for the making of a reference under the said sub-section (6) and every reference made under that sub-section before such omission shall be dealt with as if the said sub-sections had not been omitted, and, save as aforesaid, no such reference shall be made after such omission.

(3) Notwithstanding the omission of sub-sections (6), (7) and (8) of section 23 of the Gift-tax Act, 1958 (18 of 1958) by section 22 of this Act, every requisition by an appellant for the making of a reference under the said sub-section (6) and every reference made under that sub-section before such omission shall be dealt with as if the said sub-sections had not been omitted, and, save as aforesaid, no such reference shall be made after such omission.